

REMARKS

§103(a) Rejection

The Office Action rejected claims 1, 2, and 9-11 as being unpatentable over Filice et al., U.S. Patent No. 5,593,158 (hereinafter "Filice"). The Applicant respectfully traverses the rejection because Filice fails to teach or suggest all of the elements of independent claim 1.

Filice discloses a shock attenuating hollow bat including a barrel having a proximal taper segment and a separate handle having a distal tapered segment providing an enlarged shape at the distal end of the handle (Filice, Spec., col. 2, lines 31-66). The tapered segment of the handle fits within the proximal taper segment of the barrel (Filice, Spec., col. 2, lines 31-66).

As the Examiner noted in the office action dated July 17, 2001, Filice fails to teach a hollow handle with a "distal end tapered outward so as to receive said proximal end of said barrel," as claimed in Applicant's claim 1 (Claim 1, lines 5-7). Moreover, Filice fails to even suggest a modification of the insertion of the handle of the ball bat into the barrel as disclosed therein because Filice fails to recognize any need to modify conventional ball bats other than by insertion of an elastomeric isolation union. Moreover, Filice teaches away from the claimed invention because Filice requires a ball bat wherein the barrel has a relative movement towards the handle upon impact to enforce and enhance the adhesive effect of the elastomeric material placed between the barrel and the handle (Filice Spec., col. 4, line 66 – col. 5, line 19).

In contrast, the claimed invention provides a barrel which moves away from the handle upon impact by a ball, to reduce the transfer of transverse waves to the handle (Spec., pp. 9-10). Therefore, a person of ordinary skill in the art would not be motivated to modify the ball bat of Filice to the invention claimed in claim 1 of the present invention.

Since Filice fails to teach or suggest each and every element of independent claim 1, Applicant respectfully requests that the Examiner withdraw the 103(a) rejection and pass claim 1 to issuance.

Claims 2 and 9-11 are dependent claims which ultimately depend from independent claim 1, which is believed to be patentable for the reasons explained above. Therefore, Applicant respectfully submits that dependent claims 2 and 9-11 are patentable for depending from a patentable base claim.

§103(a) Rejections

Claims 3-8 were rejected as being unpatentable over Filice in view of Peng, U.S. Patent No. 5,219,164. Applicant respectfully submits that dependent claims 3-8 are patentable for depending from patentable base claim 1, which is believed to be patentable for the reasons explained hereinabove.

Applicant therefore respectfully requests that the rejections be withdrawn and the claims be passed to issuance.

In view of the foregoing remarks, early favorable action is solicited.

Respectfully submitted,

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